

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 03-0268P**

**Income Tax**

**Calendar Year 2002**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superceded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the penalty on underpayment of estimated tax.

**STATEMENT OF FACTS**

The underpayment penalty for estimated tax was assessed on an income tax return filed for the calendar year 2002.

The taxpayer is an individual living in Indiana.

I. **Tax Administration** – Penalty

**DISCUSSION**

The taxpayer argues the underpayment penalty should be waived as the estimated tax underpayment was an error on the part of the taxpayer's employer. The taxpayer's employer was unable to withhold on short-term disability income for the taxpayer. This lack of withholding caused a shortage in estimated tax whereby the taxpayer was subsequently assessed an underpayment penalty.

Information Bulletin #3 states a taxpayer is required to pay estimated tax on income that has not been withheld on, and, the amount of tax is more than \$100.00.

45 IAC 15-11-2(b) states, "Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness,

thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The Department finds the taxpayer was ignorant of tax duties. Ignorance is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

### **FINDING**

The taxpayer’s penalty protest is denied

TB/TG/JMS—032108